

The Strategic Arms Reduction Treaty

*Questions Facing the
U.S. Defense Industry*



This pamphlet is the sixth presentation in a series about the Strategic Arms Reduction Treaty and its potential impacts prepared by the On-Site Inspection Agency to increase ***Readiness Through Awareness*** of the defense industry. Additional copies of this pamphlet and cost-free materials about other arms control agreements and treaties are also available from OSIA.

April 30, 1996

Prepared for:
On-Site Inspection Agency
Security Office
Washington, D.C. 20041-0498

By:
DynMeridian, A DynCorp Company
Alexandria, VA
Under Contract No. OSIA01-94-D-0006

From the DTIRP Industry Outreach series: Order No. 206P

Introduction

The Strategic Arms Reduction Treaty entered into force on December 5, 1994, culminating over 20 years of negotiation between the United States, the Former Soviet Union and its successor states aimed at lowering the risk of nuclear war and the number of nuclear weapons. Under the Strategic Arms Reduction Treaty, there is a provision for a visit with special right of access to resolve an urgent concern about U.S. compliance with the Treaty. Although the probability of such a visit is low, under this provision, your facility could be the subject of a visit by foreign inspectors. Such visits, commonly called a special right of access visit or SAV, may occur at any U.S. facility—whether government, military or private industry. What impact might a SAV have on your facility? How much access will foreign inspection teams be permitted? What help can you expect from the U.S. Government and Department of Defense?

This pamphlet provides answers to these and many other fundamental questions that are most often asked by defense contractors and industry representatives. Clearly, the impacts of START inspections on U.S. facilities will vary, but obtaining answers to important questions like these and taking advantage of cost-free assistance can help reduce any adverse affect because *information can be a powerful countermeasure.*



Now that START has entered into force, what types of facilities are subject to inspection?

The Treaty obligated the U.S. to declare those American facilities that were directly involved in the production, storage, test and evaluation, and deployment of long-range bombers, cruise missiles, intercontinental ballistic missiles and submarine launched ballistic missiles. All of these *declared* facilities are subject to inspection.

Additionally, however, some other, non-declared facilities could be subject to START inspections, such as manufacturing facilities where bomber or missile components might be made. Even small subcontractor facilities with only a few hundred employees could be subject to inspection.

If a facility is not involved with strategic nuclear weapons systems and is not a declared facility, is it still susceptible to START inspections?

Yes. Under START provisions, one or more of the other four Treaty signatories (Russia, Belarus, Ukraine or Kazakhstan) may request a special right of access visit (SAV) to resolve a compliance concern at any U.S. facility. The Treaty does not limit the type of facility for which a SAV can be requested, but the most susceptible sites will be those suspected of activities related to strategic systems limited under START. A site could be susceptible to a SAV if it produces, tests,

assembles, or maintains comparable START systems, or if there is a reasonable suspicion that it engages in any of these activities.

How do special right of access visits differ from other types of START inspections?

Perhaps the most significant difference from other types of START inspections is that the United States can choose not to accept a proposed SAV if the compliance concern is deemed frivolous, if there are serious national security ramifications, or if there are other methods short of a visit that could resolve the concern that necessitated the SAV request in the first place.

Unlike other inspections under START, when a signatory requests a SAV, it is essentially requesting a fact-finding visit to resolve specific compliance concerns—in essence, to find out if a particular building contains items that are limited by the Treaty or to determine if a facility is producing components that are Treaty-limited.

SAVs are not restricted to declared locations or subject to quotas as are other START inspections. Moreover, SAVs do not have specific predefined procedures. Consequently, the parameters of each visit (size of team, equipment, time on site, locations to be visited) are negotiated by mutual agreement between the U.S. and the requesting signatory or at a special session of the Joint Compliance and Inspection Commission



(JCIC). The JCIC is made up of representatives from each of the five START signatories and is the forum designated by the Treaty to handle compliance concerns and other Treaty issues.

How will the U.S. Government notify commercial facilities affected by a SAV request?

Once the United States Government is notified of a SAV request at a specific facility, the Under Secretary of Defense for Acquisition and Technology [USD(A&T)] or another senior defense official will telephone the CEO or a high ranking facility manager as soon as possible—most likely within a few hours of receipt of the SAV request. This notification will first advise that there has been a request for a visit and then will normally address how the U.S. will prepare to respond, how it will assist the facility in assessing the compliance concern raised by the requesting signatory, and what U.S. Government help will be available to the facility in preparing for a possible visit. After this verbal notification, written confirmation of the SAV notification will be provided to the facility by facsimile or government courier.

What assistance will the government provide to help a facility prepare for a SAV?

Within 24 hours of the initial SAV request, the Department of Defense can dispatch a Site Assessment Team. This Team will work with facility management to gather information about the facility to develop alternate means of resolving the compliance concern, and determine whether and how a SAV could be accommodated if necessary. The Site Assessment Team could spend up to four days at your facility.

The Site Assessment Team is comprised of experts from the Department of Defense, the On-Site Inspection Agency, the military services, and members of the Defense Treaty Inspection Readiness Program (DTIRP). This team provides expertise in U.S. policy, acquisition, treaty implementation, physical security, operations and information security, counterintelligence, and security countermeasures. In order to properly assess the facility, the Site Assessment Team will work closely with the facility program and security managers.

In the event that the U.S. Government grants a SAV request, the Department of Defense will likely send a Site Preparation Team to help prepare the facility. The Site Preparation Team is similar to the Assessment Team, but is augmented with additional experts such as technology transfer specialists. The Site Preparation Team will help the facility to manage visit support activities, logistics, escort operations, and public affairs. DTIRP members will assist the facility in developing and recommending the most cost-effective



method of providing any needed security countermeasures. However, the facility and its DoD sponsor will ultimately determine which measures may be implemented.

The goal of all of the government's assistance is to reduce the impact of a SAV on a U.S. facility's operations and to aid the facility in protecting proprietary or otherwise sensitive information.

What responsibility does a facility have in responding to a SAV request? Can it refuse to permit the SAV?

The U.S. Government's responsibility is to demonstrate full compliance with the Treaty and show that nothing prohibited is occurring at the facility. The facility can help by working closely with U.S. Government representatives to compile facility information during the critical Site Assessment Phase. To be successful, the government and facility must work closely together and make use of what little time is available to collect information to be used in determining whether the U.S. will grant the SAV. The Site Assessment Team, with the help of facility management, will be looking for ways in which the compliance concern raised by the signatory can be addressed by means other than a visit. Facility management can be of most help in this phase by explaining the facility's programs and operations and recommending areas of the facility that should not be visited for national security or proprietary reasons.

Only the U.S. Government can refuse a request for a special right of access visit to a facility on U.S. territory.

How will the decision to grant or refuse the SAV request be made?

After the completion of the assessment process, the Site Assessment Team compiles its recommendations in a report consisting of two components. The first recommends how to resolve the compliance concern by means other than a visit by a team of foreign inspectors. This is the optimum solution. The second component, based on the premise that a visit is necessary to resolve the compliance concern, recommends visit parameters such as the date of the visit, how to host the visit, the briefings to be provided, the areas to be visited, number of visitors, equipment to be allowed, and duration of the visit. Cooperation and input from the facility are essential in developing both of these components.

This two-part report is submitted to the Department of Defense within 96 hours after the SAV request is received in Washington, D.C. The DoD will then review the recommendations. Following this review, the U.S. Government will then reach a decision on how to respond to the SAV request. Regardless of whether a SAV is denied or granted, the facility will be notified immediately of the U.S. Government decision.



Assuming the U.S. Government grants the SAV request, how much time will affected facilities have to prepare?

By using the maximum time permitted to respond to a SAV request and to negotiate parameters for a visit, the time that could transpire to reach agreement from an initial request to the actual visit (if granted) will likely take well over 30 days. As the Site Assessment Team works with the facility to develop recommendations for its site assessment report, site preparation issues that require significant time or special consideration will be identified. The Site Preparation Team will work with the facility to accommodate any special preparation requirements and ensure the facility is ready prior to the arrival of the foreign inspectors. However, you have ultimate responsibility for the preparation of your facility and the protection of classified or sensitive business information.

What resources will a facility need to make available to prepare for and receive a SAV? Who will bear the costs of providing them?

The facility will be asked to provide a variety of support to the Site Assessment Team, the Site Preparation Team and the foreign inspectors. The facility should be prepared to make available to the Site Assessment and Site Preparation Teams individuals with an extremely intimate knowledge of the site. These might include specialists in physical

layout, operations management, and facility safety. The facility should also be prepared to provide documentation, such as detailed maps, building operations guides, and schedules of work performed at the facility.

For the foreign inspection team's visit, the facility should make space available for the team's work, and provide communications and office equipment. The facility may also need to provide information on nearby lodging and meals, transportation, security and medical services.

DoD has budgeted funds for use in START special right of access visits at the sites it sponsors. However, allocation of funds is solely at the discretion of DoD and will be determined on a case-by-case basis.

Can a facility deny access to U.S. Government or contractor personnel during SAV preparation activities?

The legal aspects concerning this issue have yet to be resolved. However, if a facility is the subject of a compliance concern, denial of facility access to responsible U.S. Government personnel with the mission and the expertise to deal with a SAV is not in the interest of the facility. Compliance concerns can only be resolved through a cooperative working relationship between the U.S. Government and the facility itself. A positive working relationship built on partnership and cordiality will ensure a successful outcome.



Since the Department of Defense and the military services make extensive use of contractor personnel, it is likely that some non-government personnel will assist in START inspection procedures. Non-disclosure agreements can be used to protect facility proprietary and other sensitive information when necessary.

What measures may a facility use to protect company proprietary and other sensitive information during a SAV?

If such concerns are made known early in the assessment process, procedures can be negotiated by U.S. representatives working at the JCIC or with the requesting signatory to facilitate protection of sensitive items. If, for example, site managers feared revealing a proprietary process, procedures could be negotiated so that the visit would take place only when the process of concern could not be observed. This technique could also be employed to minimize the impact of a SAV on production lines.

A number of additional protective measures can be implemented to safeguard proprietary and other sensitive information during a SAV. Site Preparation Team, DoD, DTIRP, and OSIA personnel are experts in treaty implementation and in the application of such protective measures. And, all will be available to respond and advise the facility on how best to demonstrate treaty compliance without compromise of proprietary or other sensitive information.

Should a facility alert its U.S. Government and private customers of an impending SAV?

It may be advisable for the facility to alert its government and private customers. A customer's contract may be the subject of the compliance concern. If this is the case, the customer may have information that would be useful in addressing the compliance concern during the site assessment process. Protection of proprietary or national security concerns may also require cooperation and assistance from the customer.

As yet, there is no official U.S. Government policy on whether or not a facility should notify its customers of an impending SAV. The U.S. Government will attempt to apprise all affected government agencies.

Who, and how many persons, will be on a SAV team? How long will they be on site?

All of these questions are open to negotiation, which is why a SAV is so unique among START inspections. The SAV team may consist of inspectors from any or all of our START partners—Belarus', Kazakstan, Russia and Ukraine. Specific guidelines governing such factors as team size and its length of stay at the facility will be negotiated between the U.S. and the requesting party or during a special session of the JCIC. The JCIC will determine team size, visit duration, size criteria for access, measurements, visitor rights and all other visit procedures. It is highly unlikely, however, that the U.S. would permit excessive numbers of inspectors for unreasonably lengthy visits of U.S. facilities.



The Site Assessment Team report, developed in conjunction with facility personnel during the assessment phase, will contain procedural recommendations to the U.S. negotiators designed to serve the best interests of the facility and the U.S. Government in resolving the compliance concern.

What activities will SAV team members be permitted to engage in during a SAV? Will a facility need to suspend operations during a SAV?

As mentioned earlier, START does not specify procedures to be used during a SAV. Instead, access rights and procedures will be negotiated on a case-by-case basis in a mutual agreement between the U.S. and the requesting signatory or in a special session of the JCIC. Possible procedures can include weighing and measuring relevant items, as well as visiting certain buildings at a facility that may have caused the compliance concern.

If the Site Assessment Team identifies a facility operation that would inadvertently reveal sensitive or proprietary information during a SAV, suspending operations is one option. However, the Site Assessment and Site Preparation Teams will work with the facility to determine if alternative means can be used. For example, it may be possible to inspect an area of compliance concern on the facility in such a manner that sensitive operations are excluded or to conduct the visit when operations are suspended in the facility's normal course of events.

The members of the Site Assessment Team who understand the potential treaty impact of a SAV on a facility are prepared to develop sound and reasonable solutions with program managers. Their goal is to safeguard sensitive or proprietary information and avoid interfering with facility operations.

What types of equipment, if any, will the SAV inspectors be permitted to bring and use during a SAV?

The particular equipment that will be brought to the facility will be one of the subjects of negotiations between the U.S. and the requesting signatory during a special session of the JCIC. The nature of the compliance concern is one factor that will certainly be considered in determining the equipment to be permitted. The equipment negotiated for use during a SAV will likely be based upon the list of equipment contained in the Treaty for other types of START inspections. Examples of such equipment include: measuring tapes, plumb bobs, tape tensioning scales, Polaroid cameras and flashlights.

The JCIC should also establish equipment inspection procedures specifically for START SAVs. However, based on precedent, it is certain that the U.S. will negotiate inspection of any equipment used by the inspection team similar to existing provisions and will have access to results of the use of such equipment (readings, etc.).



Again, the Site Assessment Team will work with the site to develop recommendations on inspection equipment appropriate to the compliance concern and the interests of the facility.

Are facilities liable for any violation of U.S. law discovered during preparation for or conduct of a SAV?

The purpose of the Site Assessment Team, the Site Preparation Team and any other activities associated with the SAV is to prepare the facility for the visit. There is no intent or desire to look for violations of U.S. law. However, if a violation is observed, there is an obligation to bring this matter to the attention of responsible facility personnel, and if appropriate, to proper DoD authorities.

Who will handle public affairs issues and community concerns during a SAV?

The U.S. Government and the Department of Defense will provide public affairs guidance concerning a SAV and will work with the facility to provide necessary assistance for press releases and community relations concerns. The Site Preparation Team will ensure that facility concerns are considered and incorporated into the handling of public affairs issues. Local and national media will not be permitted to accompany the inspection team during the facility visit.

Who will have access to any reports and findings resulting from a SAV? Can the visited facility receive copies?

Each site that is subject to a SAV will be advised of the outcome of the visit, that is, whether or not the compliance concern that first necessitated the SAV was alleviated by the visit. Each site that is subject to a SAV may request copies of the report, subject to Treaty-imposed restrictions, from the defense department.

Are there any steps that concerned facilities can take now to prepare for a possible SAV, without expending unnecessary resources?

Yes. The first and most important step is to be aware and stay educated about information regarding START implementation. Think through the inspection process and determine how it may affect your site. Review your facility's current procedures for hosting visitors. Query your customers concerning their programs and any guidance they may have received on SAVs. And finally, if, based on the profile and visibility of activities conducted at your site, the facility has a higher risk for a START SAV, consider conducting a more substantive assessment.

Other simple, common-sense steps that a facility can take to prepare for a SAV are described in greater detail in a pamphlet entitled "Arms Control Inspection Preparation" (Order No. 905P) which is available from the On-Site Inspection Agency.



Conclusion

START implementation has been in full swing since the Treaty entered into force in late 1994. For U.S. defense industry facilities, the impact of START inspections can present several challenges, but help is available to assist you in protecting sensitive, national security and proprietary information. There are several things you should remember about START:

- All START declared facilities are subject to inspection; some non-declared facilities could also be subject to inspection.
- While the probability is low, your facility may be subject to a visit with special right of access.
- With your support and assistance, negotiated inspection procedures can be developed and employed to minimize the impact of a SAV on your facility.
- The U.S. Government is ready to support defense industry facilities to prepare for and receive START inspections.

For more information on START inspections and notification, contact the On-Site Inspection Agency's Security Office at 1-800-419-2899 and ask for the DTIRP Industry Outreach Program Manager. To request specific assistance from DTIRP, contact your local DIS Industrial Security Representative or DoD sponsor. Finally, for general information on the START Treaty, contact the Office of the Under Secretary of Defense for Acquisition and Technology, Arms Control Implementation and Compliance [OUSD(A&T)/ACI&C] at 703-695-7840.



1-800-419-2899

Attn: Security Office (SO)
On-Site Inspection Agency
201 West Service Road, Dulles IAP
P.O. Box 17498
Washington, D.C. 20041-0498